

IN RE: PETITION FOR SPECIAL HEARING
N/S Hillcrest Road, NE/Corner
of Queen Ann Road
(2500 Hillcrest Road)
9th Election District
6th Councilmanic District
William F. Clark, et ux
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 93-212-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Special Hearing filed by the owners of the subject property, William F. and Jeanette R. Clark. The Petitioners request approval of the nonconforming use of the subject property as a four-apartment dwelling unit in accordance with Petitioner's Exhibit 1.

Appearing on behalf of the Petition were William and Jeanette Clark, property owners. Also appearing on behalf of the Petition was William Macomber, adjoining property owner. Numerous residents of the surrounding community appeared at the hearing; however, there was no testimony presented in opposition.

Testimony indicated that the subject property, known as 2500 Hillcrest Road, consists of 0.1377 acres, more or less, zoned D.R. 16 and is improved with a two-story building containing four apartments. Testimony indicated that this property was the subject of a prior zoning case in which the previous owner was granted approval to operate a four-apartment building on the premises by Order issued April 5, 1948 by the then Zoning Commissioner. Testimony indicated that pursuant to that grant of approval from the Zoning Commissioner, a four-apartment building was constructed on the property in the early 1950s. The uncontradicted testimony was that the subject property has been used as a four-apartment building continuous-

ly and without interruption since its construction in the early 1950s. There was no testimony offered by any members of the community concerning this particular four-apartment dwelling.

As with all nonconforming use cases, it is necessary to establish the year prior to which the Petitioner must establish this use as nonconforming. That year is 1955. As previously stated, the subject property was given zoning approval for use as four apartments on April 5, 1948; however, the law changed in 1955. The testimony demonstrated that the building was constructed prior to 1955, and therefore, enjoys a legal nonconforming use.

The second principle to be applied, as specified in Section 104.1, is whether or not there has been a change in the use of the subject property. A determination must be made as to whether or not the change is a different use, and therefore, breaks the continued nature of the nonconforming use. If the change in use is found to be different than the original use, the current use of the property shall not be considered nonconforming. See *McKenny v. Baltimore County, Md.*, 39 Md. App. 257, 385 A2d. 96 (1978).

When the claimed nonconforming use has changed, or expanded, then the Zoning Commissioner must determine whether or not the current use represents a permissible intensification of the original use or an actual change from the prior legal use. In order to decide whether or not the current activity is within the scope of the nonconforming use, the Zoning Commissioner should consider the following factors:

"(a) To what extent does the current use of these lots reflect the nature and purpose of the original nonconforming use;

(b) Is the current use merely a different manner of utilizing the original nonconforming use or

- 2 -

Does it constitute a use different in character, nature, and kind;

(c) Does the current use have a substantially different effect upon the neighborhood;

(d) Is the current use a "drastic enlargement or extension" of the original nonconforming use."

McKenny v. Baltimore County, Md., Supra.

After due consideration of the testimony and evidence presented, it is clear that the subject property has been used continuously and without interruption as a four-apartment building since prior to the applicable date relevant to establish this nonconforming use.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the Petition for Special Hearing should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 17th day of February, 1993 that the Petition for Special Hearing to approve the nonconforming use of the subject property as a four-apartment building, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to file a new Petition.

2) All tenants shall park in the appropriate spaces provided or on the street. At no time shall tenants park on the lawn.

3) It shall be the responsibility of the Petitioners to insure that the subject building and surrounding property are regularly maintained in good condition and kept free and clear of all trash and debris. The lawn shall be mowed on a regular basis and grass seed planted as needed to prevent any bare spots from forming.

- 3 -

3) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

TMK:bjs

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING
Date 2/12/93
By [Signature]

ORDER RECEIVED FOR FILING
Date 2/12/93
By [Signature]

ORDER RECEIVED FOR FILING
Date 2/12/93
By [Signature]

ORDER RECEIVED FOR FILING
Date 2/12/93
By [Signature]

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

February 17, 1993

Mr. & Mrs. William F. Clark
319 Hampton Street
Cranford, New Jersey 07016

RE: PETITION FOR SPECIAL HEARING
N/S Hillcrest Road at NE/Corner Queen Anne Road
(2500 Hillcrest Road)
9th Election District - 6th Councilmanic District
William F. Clark, et ux - Petitioners
Case No. 93-212-SPH

Dear Mr. & Mrs. Clark:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3351.

Very truly yours,

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: People's Counsel

File

Petition for Special Hearing

2500 Hillcrest Rd 93-212-SPH D2-16
to the Zoning Commissioner of Baltimore County

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 900.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve that 39A21 covers four family house located at 2500 Hillcrest Road Baltimore Md. (Harford Park) as a non-conforming use BS

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

Legal Owner(s):

(Type or Print Name)

William F. Clark

Signature

(Type or Print Name)

Signature

Address

Jeanette R. Clark

City and State

(Type or Print Name)

Signature

Attorney for Petitioner:

Address

(Type or Print Name)

City and State

Signature

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Address

William Clark

City and State

Name

Attorney's Telephone No.:

319 Hampton Street Cranford, N.J. 07016

Address (908) 272-3472 Phone No.



OFFICE USE ONLY
ESTIMATED LENGTH OF HEARING (1/2HR. + 1HR.)
AVAILABLE FOR HEARING
MON./TUES./WED. - NEXT TWO MONTHS
ALL OTHER
REVIEWED BY: [Signature] DATE 2/22/93

ORDER RECEIVED FOR FILING
Date 2/12/93
By [Signature]

SILBERMANN & ASSOCIATES, INC.
Engineers • Planners • Surveyors

3527 EAST JOPPA ROAD
BALTIMORE, MARYLAND 21234
(410) 661-5888
FAX NO. 661-0728

93-212-SPH

BEGINNING AT A POINT ON THE SOUTH SIDE OF HILLCREST ROAD, WHICH IS 50 FEET WIDE. AT A DISTANCE OF 27.5 FEET EAST OF THE CENTERLINE OF QUEEN ANNE ROAD, WHICH IS 51 FEET WIDE. THENCE THE FOLLOWING COURSES AND DISTANCES:

1) N 38 59' 00" E 120.0'

2) S 51 01' 00" E 50.0'

3) S 38 59' 00" W 120.0'

4) N 51 01' 00" W 50.0 TO THE PLACE OF BEGINNING

AS RECORDED IN THE LAND RECORDS OF BALTIMORE COUNTY IN DEED LIBER 5330 FOLIO 870.

BEING LOTS # 52 & 53 IN THE SUBDIVISION OF HARFORD PARK AS RECORDED IN BALTIMORE COUNTY PLAT BOOK # 5 FOLIO # 62.

CONTAINING 6000.00 SQUARE FEET OR 0.1377 ACRES.

HARVEY SILBERMANN, P.E.
PROFESSIONAL ENGINEER
MARYLAND P.E. # 4240



22

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY 93-212-SPH
Towson, Maryland

District 9A Date of Posting 2/12/93
Posted for: Special Hearing
Petitioner: Wm. & Jeanette Clark
Location of property: N/S Hillcrest Rd. (2500) at Queen Anne Rd.
Location of Sign: 2500 Hillcrest Rd. at Queen Anne Rd.
Remarks: [Signature]
Posted by: [Signature] Date of return: 2/22/93
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., 1993
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of successive weeks, the first publication appearing on 2/12/93, 1993.

THE JEFFERSONIAN,
S. Zeke Olson
Publisher

Order 93-212-SPH (Rev. 1992)
This Certificate of Posting is valid only if the following conditions are met:
1. The posting is made by the Zoning Department.
2. The posting is made on the property.
3. The posting is made on the date of the hearing.
4. The posting is made on the day of the hearing.
5. The posting is made on the day of the hearing.
6. The posting is made on the day of the hearing.
7. The posting is made on the day of the hearing.
8. The posting is made on the day of the hearing.
9. The posting is made on the day of the hearing.
10. The posting is made on the day of the hearing.

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, Maryland 21204

receipt

Account: R-0016190
Number
Date

2500 Hillcrest Rd

93-212-SPH

410-887-3353

2500.00

Please Make Checks Payable To: Baltimore County

Cashier Validation

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

DATE: 1-27-93

William and Jeanette Clark
319 Hampton Street
Cranford, New Jersey 07016

RE:
CASE NUMBER: 93-212-SPH (Item 222)
M/S Hillcrest Road, REC (Jesse Anne Road)
2500 Hillcrest Road
9th Election District - 6th Councilmanic
Petitioner(s): William F. Clark and Jeanette R. Clark
HEARING: FRIDAY, FEBRUARY 5, 1993 at 2:00 p.m. in Rm. 106, Office Building.

Dear Petitioner(s):

Please be advised that \$ 66.13 is due for advertising and posting of the above captioned property and hearing date.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 109, Towson, Maryland 21204. Please place the case number on the check and make same payable to Baltimore County, Maryland. In order to avoid delay of the issuance of proper credit and/or your order, immediate attention to this matter is suggested.

Arnold Jablon
DIRECTOR

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

DATE: 1-27-93

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 93-212-SPH (Item 222)
M/S Hillcrest Road, REC (Jesse Anne Road)
2500 Hillcrest Road
9th Election District - 6th Councilmanic
Petitioner(s): William F. Clark and Jeanette R. Clark
HEARING: FRIDAY, FEBRUARY 5, 1993 at 2:00 p.m. in Rm. 106, Office Building.

Special Hearing to approve the four family house as a non-conforming use.

Arnold Jablon
DIRECTOR

cc: William and Jeanette Clark
John McCoy

NOTE: HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

January 22, 1993

Mr. and Mrs. William F. Clark
319 Hampton Street
Cranford NJ 07016

RE: Case No. 93-212-SPH, Item No. 222
Petitioner: William F. Clark, et ux
Petition for Special Hearing

Dear Mr. and Mrs. Clark:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

Your petition has been received and accepted for filing this 22nd day of December 1992.

Arnold Jablon
DIRECTOR

Received By:
W. Carl Richards Jr.
Chairman,
Zoning Plans Advisory Committee

Petitioner: William F. Clark, et ux
Petitioner's Attorney:

DPW/Developers Engineering Division (Public Services)
Development Review Committee Response Form
Authorized signature: *James B. Small* Date: 1/19/93

Project Name	Waiver Number	Zoning Issue	Meeting Date
William F. And Jeanette R. Clark	221		1-11-92 NC
Tyler B. and Lorretta M. Anderson	218		1-11-93 NC
Worthington Place L.P.	219		NC
AAI Corporation	220		NC
William F. and Jeanette R. Clark	222		NC
John F. Moore	223		NC

COUNT 5

90476 Stonegate at Patapsco (Azeal Property) 6-1-92
ZON DED TE (Waiting for developer to submit plans first)

COUNT 1

FINAL TOTALS
COUNT 7

*** END OF REPORT ***

Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

1-7-93

Re: Baltimore County
Item No.: + 222 (LJG)

Ms. Julie Winiarski
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Dear Ms. Winiarski:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration projects.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,
for Bob Small
John Contestabile, Chief
Engineering Access Permits
Division

My telephone number is 410-333-1350

Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-492-9082 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-0717

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: January 12, 1993

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: Petitions from Zoning Advisory Committee
(January 11, 1993)

The Office of Planning and Zoning has no comments on the following petition(s):

Marshall and Mildred Whipperman, Item No. 214 ✓
Tyler and Loretta Anderson, Item No. 218 ✓
William and Jeanette Clark, Item No. 221 ✓
William and Jeanette Clark, Item No. 222 ✓

If there should be any further questions or if this office can provide additional information, please contact Francis Morsey in the Office of Planning at 887-3211.

Prepared by: *Francis Morsey*

Division Chief: _____

PK/FM:rdn

214.ZAC/ZAC1

BUREAU OF TRAFFIC ENGINEERING
DEPARTMENT OF PUBLIC WORKS
BALTIMORE COUNTY, MARYLAND

DATE: January 11, 1993

TO: Mr. Arnold Jablon, Director
Office of Zoning Administration
and Development Management

FROM: Robert J. Family

SUBJECT: J.A.C. Comments

DATE: MEETING DATE: January 10, 1993

ITEM NUMBER: 117

Adequate off-street parking spaces must be provided.

Robert J. Family
Robert J. Family
Traffic Engineer II

Department of Environmental Protection & Resource Management
Development Review Committee Response Form
Authorized signature: *[Signature]* Date: 1/20/93

Project Name: J.P.D. Holding Corporation
File Number: 213
Waiver Number: 1-24-93
Zoning Issue: *Written comments*
Meeting Date: 1-24-93

DEPRM RP STP: Marshall and Mildred Whipperman
214
DEPRM RP STP: Joseph K. And Alva A. Pokorny
216
DEPRM RP STP: *In process*

DEPRM RP STP: William F. And Jeanette R. Clark
221
DEPRM RP STP: *No comments*

DEPRM RP STP: Tyler B. and Loretta M. Anderson
218
DEPRM RP STP: *No comments*

DEPRM RP STP: Worthington Place L.P.
219
DEPRM RP STP: *In process*

DEPRM RP STP: AAI Corporation
220
DEPRM RP STP: *No comments*

DEPRM RP STP: William F. and Jeanette R. Clark
222
DEPRM RP STP: *No comments*

DEPRM RP STP: John F. Moore
223
DEPRM RP STP: *In process*

DEPRM RP STP: Charles A. Wagandt
203
DEPRM RP STP: *In process*

DEPRM RP STP: *In process*

DEPRM RP STP: *In process*

DEPRM RP STP: *In process*

DEPRM RP STP: *In process*

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DEPRM RP STP: *In process*

Baltimore County Government
Fire Department



JANUARY 17, 1993

780 East Joppa Road Suite 901
Towson, MD 21286-5300

(410) 887-1500

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: WILLIAM F. CLARK AND JEANETTE R. CLARK

Location: #2500 HILLCREST ROAD

Item No.: 4222 (LJC) Zoning Agenda: JANUARY 11, 1993

Gentlemen:

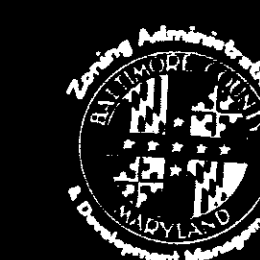
Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

BUILDING MUST COMPLY WITH APPLICABLE SECTIONS OF THE 1951 LIFE SAFETY CODE.

IF THIS BUILDING IS CONSIDERED A NEW USE, THEN BUILDING IS REQUIRED TO BE SPRINKLERED.

REVIEWED: *Carl J. [Signature]*
Planning & Zoning
Special Inspection Division

JE/REE



Zoning Enforcement

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Larry P. Schmidt
Zoning Commissioner January 4, 1993

FROM: James H. Thompson - PLE
Zoning Enforcement Coordinator

SUBJECT: ITEM NO.: 222
PETITIONER: William F. & Jeanette R. Clark

VIOLATION CASE NO.: 093-250

LOCATION OF VIOLATION: 2500 Hillcrest Avenue
Baltimore, Maryland 21214
9th Election District

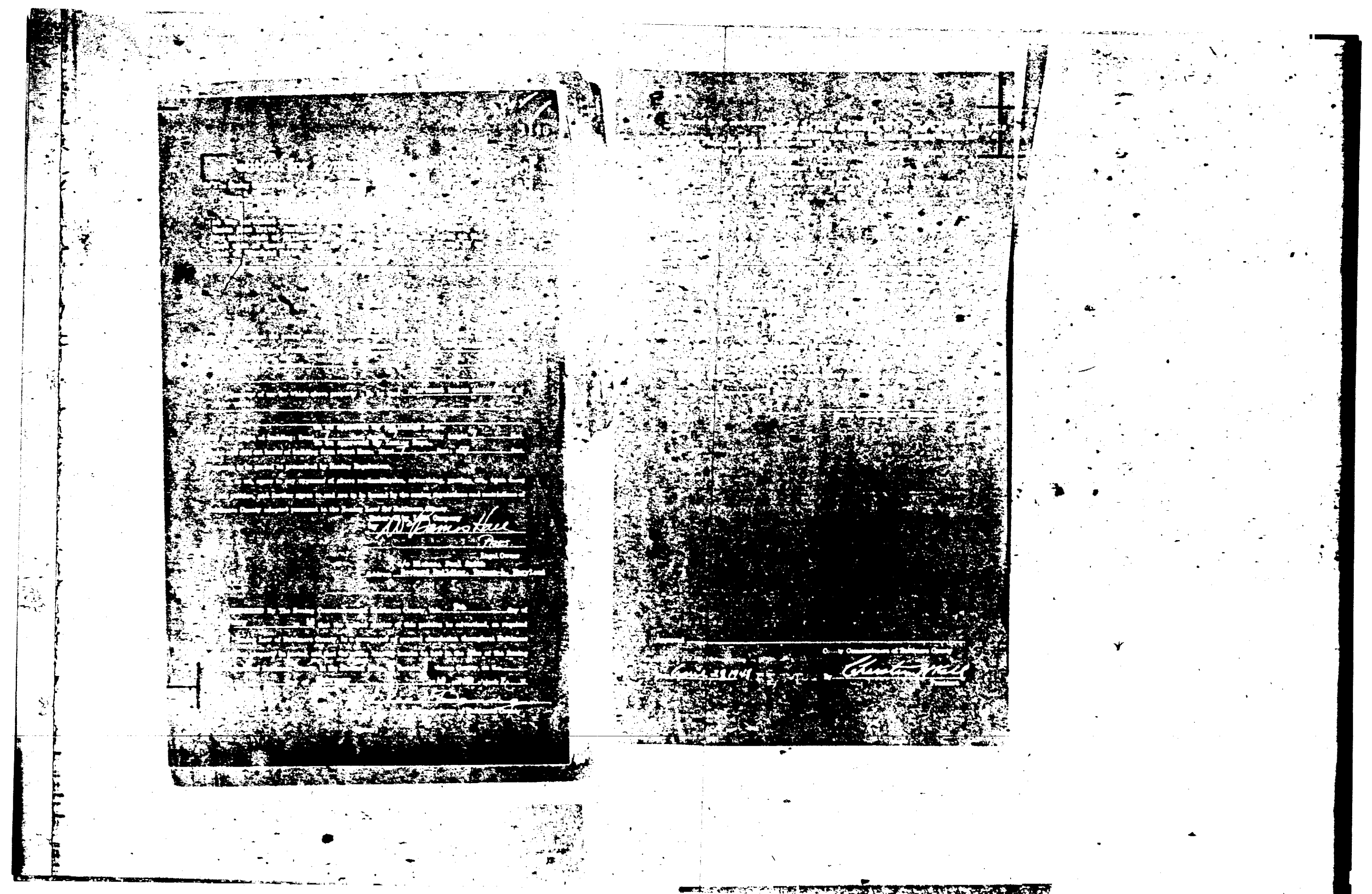
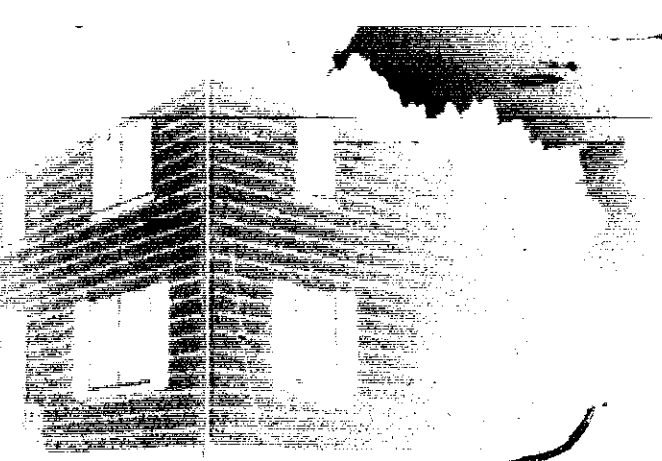
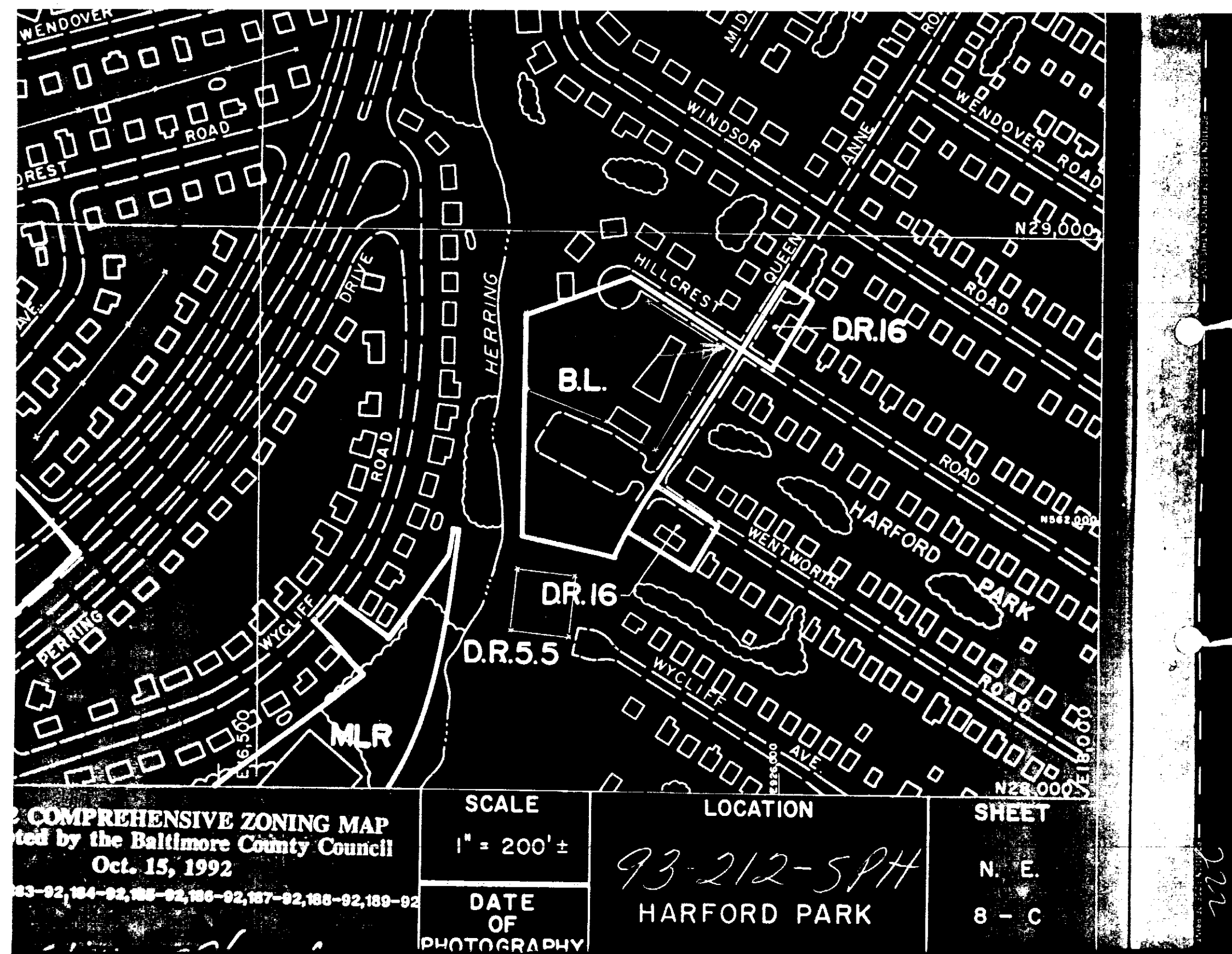
DEPONDANT: William F. & Jeanette R. Clark
119 Hampton Street
Crawford, New Jersey 07036

Please be advised that the aforementioned petition is the subject of an active violation case. When the petition is scheduled for a public hearing, please notify the following persons:

NAME ADDRESS
John McCoy 2501 Wentworth Road, Apt. D
Baltimore, Maryland 21244

After the public hearing is held, please send a copy of the Zoning Commissioner's Order to the Zoning Enforcement Coordinator, so that the appropriate action may be taken relative to the violation case.

JHT/TLP/cor

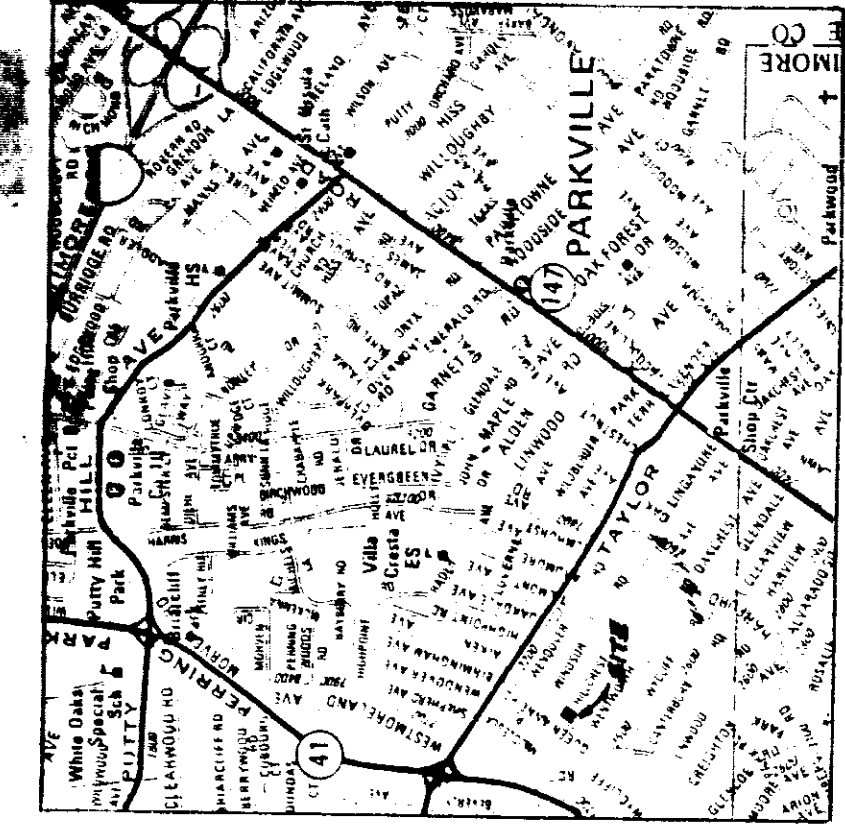




SILBERMAN and ASSOCIATES
Engineers • Surveyors
3527 East Joppa Road
Baltimore, Maryland, 21234
ph. 301-661-5888

DATE: DEC. 2, 1988
PROJECT: RENOVATION OF EXISTING MULTIPLE FAMILY DWELLING 2500 QUEEN ANNE DRIVE
DRAWN BY: J. STEPHANOWSKI
SCALE: 1/4" = 1'-0"

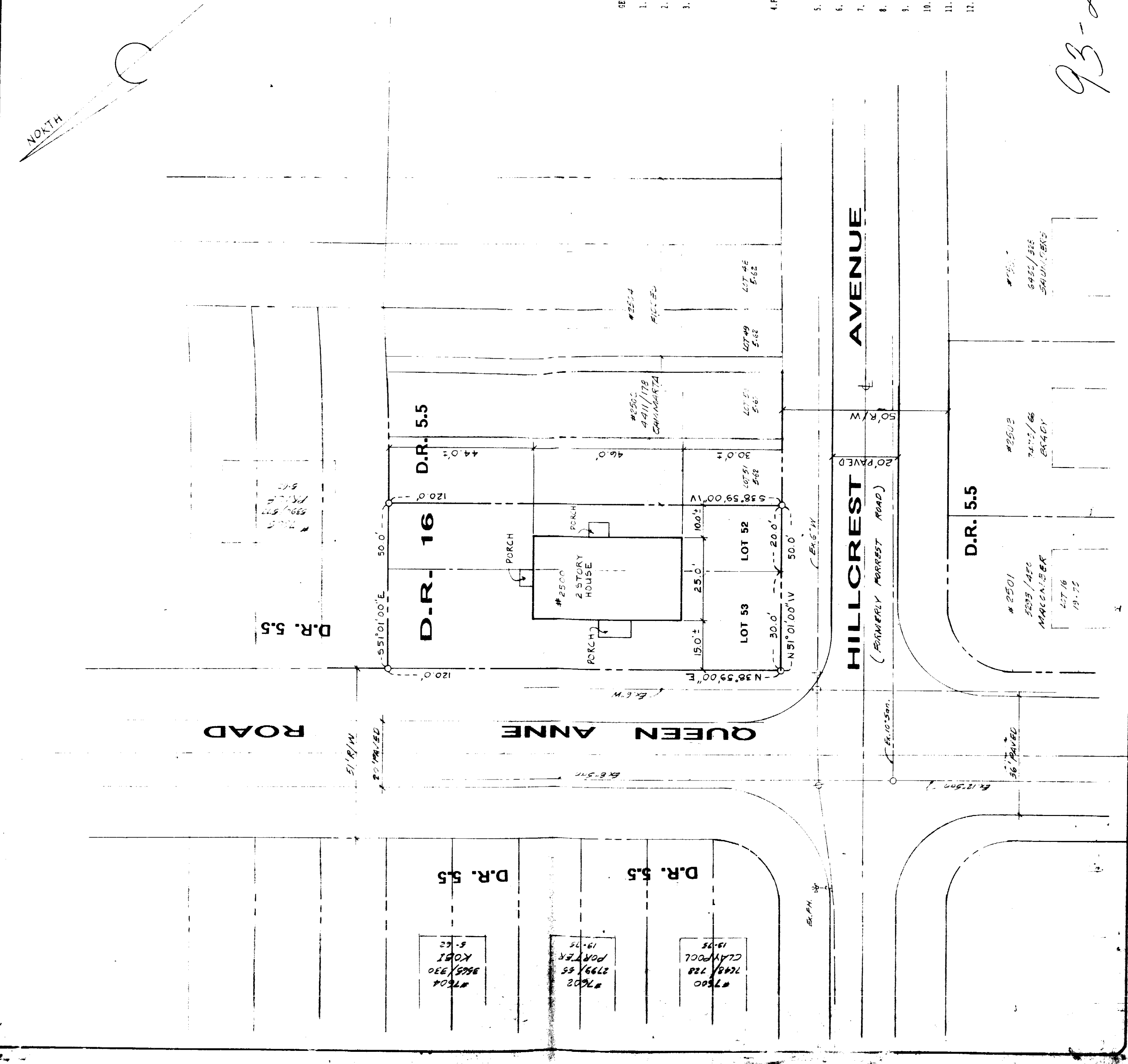
FILE NUMBER	93-212
REVISIONS	
SHEET	1



LOCATION PLAN
SCALE 1/4" = 1'-0"

- GENERAL NOTES
1. ELECTION DISTRICT # 5
 2. COUNTY COUNCIL DISTRICT # 6
 3. OWNER'S NAME AND ADDRESS
WILLIAM CLARK
335 HANFORD STREET
PARKVIEW, NEW JERSEY 07056
 4. PROPERTY ADDRESS
2500 HILLCREST AVENUE
 5. ZONING CASE # 1146, APRIL 1980 GRANTED MULTIPLE FAMILY DWELLING
 6. ZONING MAP RE B-C
 7. NO EXISTING OR PROPOSED SIGNS
 8. STRUCTURE LESS THAN 40 FEET IN HEIGHT
 9. PARKING NOT REQUIRED PER ZONING CASE # 1146, APRIL 1980
 10. PROPERTY CORNER E.A. 16
 11. HANFORD PARK SUBDIVISION
 12. AREA = 600.00 SQUARE FEET
= 0.01371 ACRES

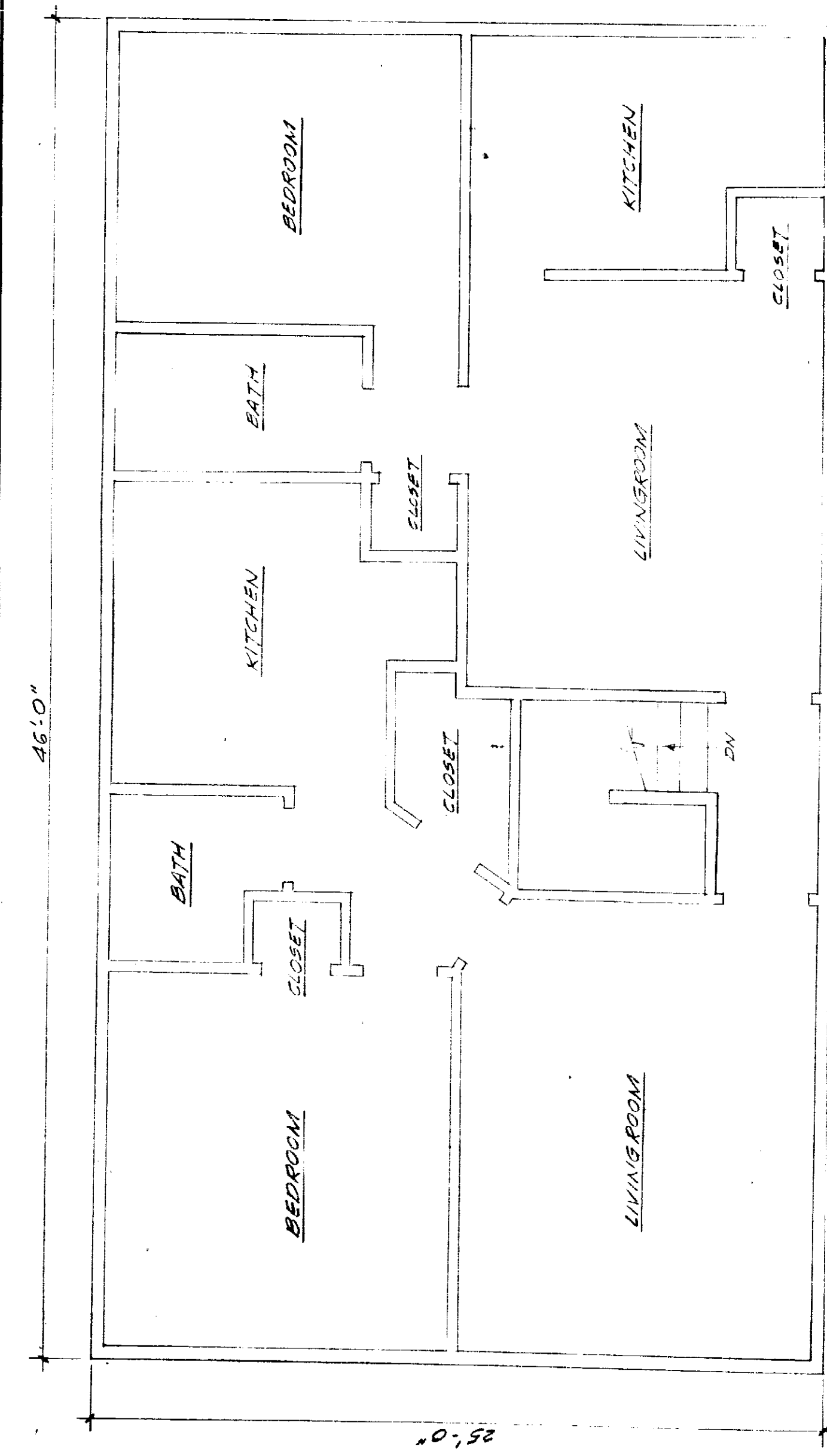
93-212-SPH



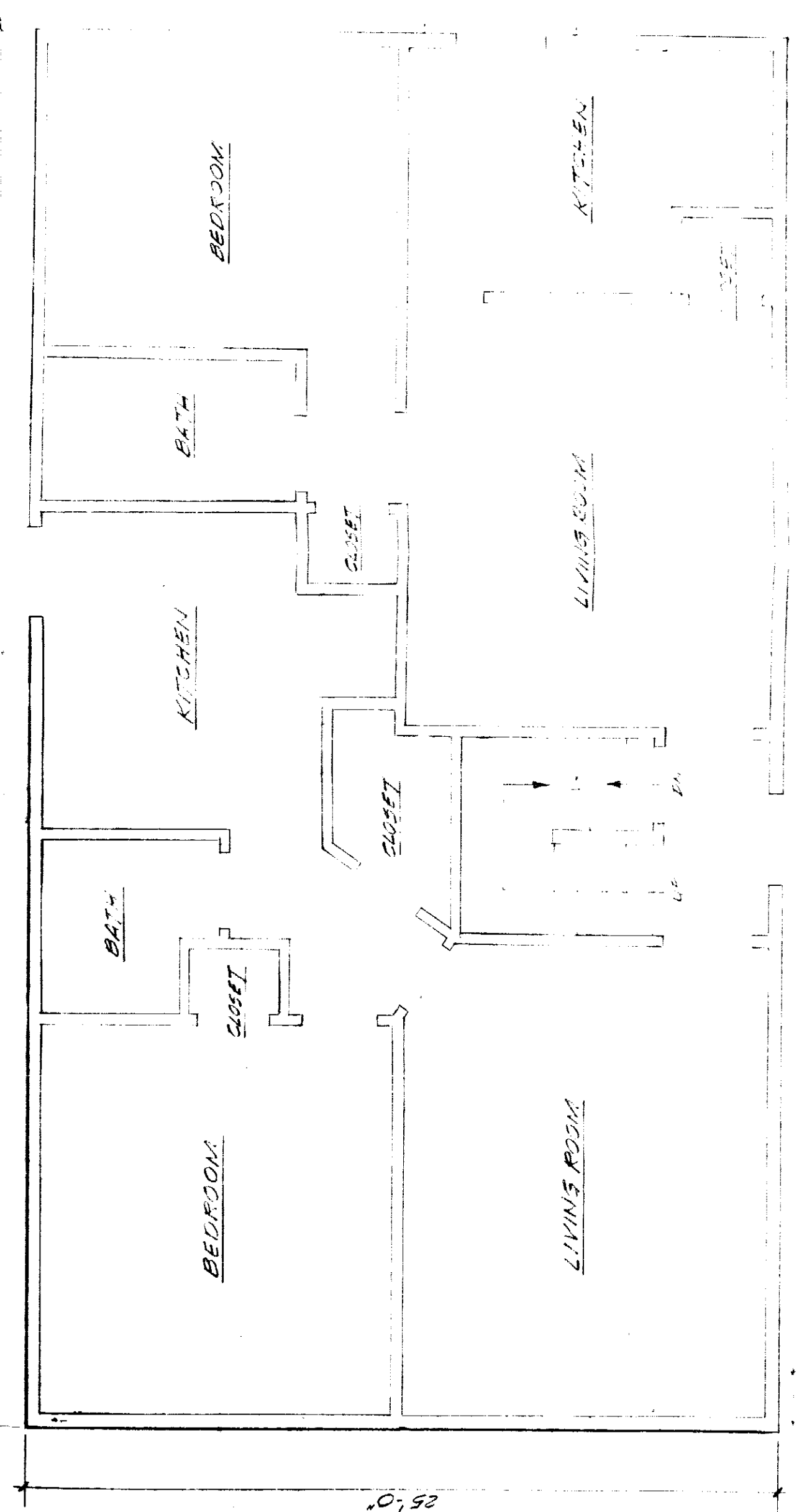
SILBERMAN and ASSOCIATES
Engineers • Surveyors
3527 East Joppa Road
Baltimore, Maryland, 21234
ph. 301-661-5888

DATE: DEC. 2, 1988
PROJECT: RENOVATION OF EXISTING MULTIPLE FAMILY DWELLING 2500 QUEEN ANNE DRIVE
DRAWN BY: J. STEPHANOWSKI
SCALE: 1/4" = 1'-0"

FILE NUMBER	93-212
REVISIONS	
SHEET	1



2ND FLOOR PLAN
SCALE 1/4" = 1'-0"



1ST FLOOR PLAN
SCALE 1/4" = 1'-0"

93-212-SPH